

June 13, 2013

WATER DISTRICT 34  
WATERMASTER, ROGER TOTTEN  
P. O. BOX 53  
MACKAY, IDAHO 83251

RE: 3rd Follow-up Request for Water Distribution Reports

Dear Roger and Cindy,

As everyone knows by now, we have received a response from IDWR, Nick Miller, informing us the Water District 34 Rule 50 Mitigation Plan as submitted is not acceptable to the Director. The primary reasons for not accepting the plan appear to be the lack of sufficient amounts of acquired water supplies to be used for general river augmentation, and incomplete descriptive details regarding the necessary transfers of those water rights and the disposition of appurtenant lands for the 2013 season. We all have a shared part in this set back of trying to protect the interests of both surface and ground water users within the basin.

Additionally, the Director has now received a formal complaint requesting the investigation of the watermaster and the conducting of a hearing to determine whether or not there is cause for your removal. This complaint contains allegations that closely reflect the same concerns members of the advisory committee has expressed many times over the past several years.

Director Spackman has officially written to you and the advisory committee (see letter dated May 2, 2012) setting forth areas the district is out of compliance with the laws of Idaho and promulgated rules. Nick Miller has sent a follow-up letter (dated September 11, 2012) clarifying and providing instructions that would remedy these operational, record, and report shortcomings. He has also provided sound guidance to the water district when attending local meetings and has answered a plethora of phone calls from us and other water users.

In all the above mentioned instances there is a common theme that should alarm you, and cause you to take immediate corrective actions. It certainly causes us to do so. Both you and the advisory committee have a fiduciary responsibility to the water users of the basin which we represent and serve. We urge you in the strongest way possible to take notice and use all available resources to set a course forward that will result in:

- 1.) The proper measurement, accounting, and distribution of both available surface and ground water supplies.
- 2.) A detailed report of water users who have and are calling for water delivery (who, when, where, what, and how much).
- 3.) The proper recording of distributed diversions into canal headings and distinguished water types.

The Advisory Committee continues to be concerned about the accuracy and transparency of the water distribution reports you are responsible for as the watermaster in Water District No. 34. As previously noted, we recognize you are making some attempt to improve these reports, and we appreciate those efforts. The question is, are those attempts sufficient enough to warrant confidence in the reports by basin water users and satisfy the requirements of the Director?

To that end members of the Advisory Committee have scheduled and attended an unprecedented amount of committee meetings. These meetings are intended to support you by providing you with the necessary budget, staff, instrumentation tools, reports, and oversight. Again, we are asking you to provide us with copies of all the reports you are responsible for. Please do not leave them in your office, say they are not ready for implementation, or rely on reports prepared and used by the BLRID. By reviewing these reports with you, we are able to help you determine if the reports meet the standards and requirements of IDWR, and know if the reports are transparent enough to help water users feel confident they are receiving the available water supplies in a fair and impartial manner.

As part of the committee meeting scheduled for June 18, 2013, in Mackay, we expect a forthright and open discussion with all the items we are dealing with. They include, but are not limited to:

- 1.) All reports and records used to determine available surface supply. (Roger)
- 2.) Delivery Calls. (Roger)
- 3.) Diversions from the Big Lost River and its tributaries sorted by reach headings, water types, and priorities. (Roger)
- 4.) Budget and financial status for the year to date. (Cindy)
- 5.) Ground water inspection and measurement report. (Fred)
- 6.) Mitigation Plan report and potential path forward regarding Nick's instructions. (Roger and AC)
- 7.) Sponsor settlement discussion between ground water users and mitigation callers. (Roger and AC)
- 8.) Complaint and Request for Removal. (AC)
- 9.) Other issues and concerns regarding water distribution. (public comment)

We look forward to hearing from you and anticipate this letter has arrived in a timely enough manner so as to allow you to prepare for the advisory committee meeting next week. These are demanding days and require our collective best efforts.

Sincerely,

Members of the Advisory Committee

Copy: E-mail to Nick Miller, IDWR